

REMARKS

In the present amendment, claims 20-36 have been canceled without disclaimer and subject to applicant's right to pursue a divisional application directed to the canceled subject matter. Indeed, such a divisional application is filed herewith. New claims 37-46 have been added to reintroduce former claims 1, 2, 9-12, and 16-19, which were the remaining claims under consideration as of the action mailed June 14, 2006

Objections to the Specification

In the Office action mailed June 14, 2006, the specification was objected to as being informal in usage of the trademark "CYTOP." In particular, the objection contends that CYTOP should be capitalized wherever it appears and be accompanied by generic terminology.

Upon review of the specification, Applicant is unable to locate any usage of "CYTOP" that is not capitalized. Also, paragraphs [0007] and [0019] have been amended to ensure that the trademark "KYNAR" is capitalized. Accordingly, the proprietary nature of trademarks is respected in the specification and applicant traverses this portion of the objection.

As for generic terminology, para. [0012] of the specification has been amended so that the first appearance of the trademark "CYTOP" in the Detailed Description is accompanied by an indication that CYTOP is "an amorphous, soluble perflucropolymer," as originally found in para. [0015]. Usage of "CYTOP" elsewhere in the specification is believed to be made clear by the amendments to para. [0012].

Accordingly, Applicant requests that the objection to the specification be withdrawn.

Objections to the Claims

The Office action mailed June 14, 2006 is understood to have objected to the use of the term "copolymer" in the claims. In particular, the Office action is understood to contend that Applicant was acting as a lexicographer and has set forth a definition of "copolymer" that is different from its ordinary and customary meaning.

Applicant respectfully disagrees. To begin with, Applicant notes that claims terms are presumed to have their ordinary and customary meaning unless they are defined otherwise. See, e.g., M.P.E.P. § 2111.01 Plain Meaning I. THE WORDS OF A CLAIM MUST BE GIVEN THEIR "PLAIN MEANING" UNLESS THEY ARE DEFINED IN THE SPECIFICATION (emphasis added).

The present rejection has not identified one iota of support for the contention that Applicant has defined "copolymer" differently from its ordinary and customary meaning. Without any such evidence, Applicant submits that the presumption favoring the ordinary and customary meaning of "copolymer" is not overcome.

Moreover, the specification makes it clear that at least some implementations of the technology involve copolymers in accordance with the ordinary and customary meaning of the term in the art. For example, attention is respectfully directed to, e.g., paras. [0022]-[0024] that describe two different monomer units polymerized together.

Accordingly, applicant submits that the recitation of the term "copolymer" in the claims is appropriate and asks that the objection be withdrawn.

Claim Rejections: 35 U.S.C. § 112, first paragraph

Claims 2 and 16-19 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to be enabled by the specification. In particular, the office action contends that the recitation of the term "cyclic fluorocarbon oxygen-containing polymer" embraces vast numbers of polymers and that any identification of which particular polymers are appropriate

for use would require such undue experimentation that a rejection under 35 U.S.C. § 112, first paragraph is warranted.

Applicant respectfully disagrees. To begin with, Applicant notes that the breadth of claims is only one of several factors that must be considered in making a patentability determination under 35 U.S.C. § 112, first paragraph. See *M.P.E.P* § 2164(a). Since "[i]t is improper to conclude that a disclosure is not enabling based on an analysis of only one of [these] factors while ignoring one or more of the others," and only a single factor has been considered, the prior rejection under 35 U.S.C. § 112, first paragraph is facially deficient.

Further, it is well established that the test of enablement is not whether any experimentation is necessary, but whether, if experimentation is necessary, it is undue. See, e.g., *M.P.E.P* § 2164.01 (citing *In re Angstadt*, 537 F.2d 498, 504, 1 (C.C.P.A. 1976)). Since there has been no finding regarding the level of ordinary skill in the art and the type of experimentation typically performed in the art, any assertion that any necessary experimentation is undue is unsupported.

Accordingly, applicant submits that the recitation of the term "cyclic fluorocarbon oxygen-containing polymer" in the claims is appropriate.

Claims 1, 2, 9-12, and 16-19 were rejected under 35 U.S.C. § 112, second paragraph as indefinite. In particular, the rejection contends that the recitation of the term "co-polymer" is a derogation of the accepted meaning of the term in the art.

However, as discussed above, the present rejection has not identified one iota of support for the contention that Applicant has defined "copolymer" differently from its ordinary and customary meaning. Moreover, the specification makes it clear that at least some implementations of the technology do involve copolymers in accordance with the ordinary and customary meaning of the term in the art.

Accordingly, applicant submits that the recitation of the term "copolymer" in the claims is appropriate.

Claims 1, 2, 9-12, and 16-19 were rejected under 35 U.S.C. § 112, second paragraph as indefinite. In particular, the rejection contends that the recitation of the term "surface modified" is improper since "[c]opolymers are not, *per se*, surface-modified."

Applicant respectfully submits that meaning of the claimed surface modification of polymers is not indefinite. To begin with, nothing in the claims required that all copolymers be, *per se*, surface-modified. Indeed, the term "surface modified"

appeared in dependent claim 19, making it clear that parent claim 16 encompassed copolymers that were not surface-modified. The same is true for the present claims.

Moreover, the specification makes it clear that some implementations of the technology involve surface-modified copolymers. For example, attention is respectfully directed to para. [0030] which describes various surface modification techniques.

Accordingly, applicant submits that the recitation of the term "surface modified" in the claims is appropriate.

Claim Rejections: 35 U.S.C. § 102(b)

Claims 1, 2, 9-12, and 16-18 were rejected under 35 U.S.C § 102(b) as anticipated by U.S. Patent No. 5,880,204 to McCarthy et al. (hereinafter "McCarthy").

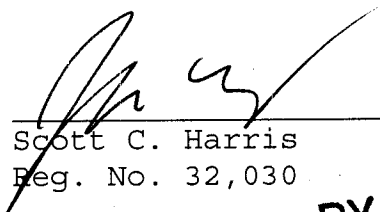
The rejections are based on the contention that McCarthy's polymer blend somehow constitutes a "copolymer." As discussed above, nothing in the specification or claims indicates that Applicant has redefined co-polymer from its ordinary meaning to encompass McCarthy's polymer blends.

Since all remaining independent claims recite such copolymers, they are therefore not anticipated by McCarthy. Applicant asks that the rejections of the independent claims, and the claims dependent therefrom, be withdrawn.

Applicant asks that all claims be allowed. No fees are believed due at this time. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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